

(c) *Time for use* Loan funds shall be used by the school within a reasonable time

(d) *Unused and misused funds* Loan funds that are not used within a reasonable time for the purposes set out in paragraph (b) of this section and loan funds that are used for other purposes shall become immediately payable in full together with all interest accrued thereon. If the total amount not used for the acquisition of equipment or minor remodeling under an approved project does not exceed fifty dollars this subsection shall not apply

(e) *Disposal and diversion of equipment acquired* During the period of the loan the equipment acquired with loan funds shall not be disposed of nor its use diverted to any purpose not specified in the Act or Regulations

(1) In the event of such disposal or diversion of use the balance of the loan shall at the option of the Commissioner become at once due and payable, together with accrued interest thereon

(2) Any diversion not consistent with the Act and Regulations and any disposal, shall be reported to the Commissioner

(f) *Time of acquisition* Loan funds shall not be used for the acquisition of equipment (and minor remodeling) for which firm commitments have been made prior to the approval of the application

§ 142.12 Interest

(a) *Determination of interest rate* Loans shall bear interest at the rate arrived at by adding one-quarter of one per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as of the last day of the month preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of one per centum

(b) *Effective interest rate* The interest rate in effect at the time a loan is approved shall remain in effect for the life of the loan

(c) *Accrual of interest* Interest shall accrue from the date of payment of loan principal to the school

§ 142.13 Repayment

(a) *Date of maturity* Loans shall mature and be repayable on such date as may be agreed to by the Commissioner and the borrower but such date shall not be more than ten years after the date on which such loan was made

(b) *Prepayment* Loans may be prepaid in full or in part at any time with interest to the date of payment without penalty for prepayment in advance of schedule

§ 142.14 Records and reports

(a) *Records* Each school that receives a loan shall maintain accessible and intact for audit purposes all records supporting the use of loan funds until the loan has been repaid in full, or until three years after receipt of loan funds whichever is later

(b) *Reports* Each school that receives a loan shall furnish such reports regarding the use of loan funds as the Commissioner may require

PART 143—GUIDANCE, COUNSELING, AND TESTING, IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS—STATE PROGRAMS

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SOURCE §§ 143 1 to 143 34 appear at 24 F.R. 11104 Dec 31 1959

AUTHORITY §§ 143 1 to 143 34 issued under sections 501-504 1001 72 Stat 1592-1593 1602 20 U.S.C. 481-484 581

Subpart A—Definitions**§ 143 1 Definitions**

As used in this part

(a) 'Act' means the National Defense Education Act of 1958 Public Law 85-864 (72 Stat 1580) 20 U.S.C. Ch 17 as amended by Public Law 86-70 73 Stat 144

(b) 'Class' means a group of students assembled for instruction for a given period of time under one teacher but not necessarily the same teacher in a situation where the students are in the presence of the teacher

(c) 'Commissioner' means the United States Commissioner of Education Department of Health Education and Welfare or his delegate

(d) Department means the Department of Health Education and Welfare

(e) Fiscal year as used with respect to reporting and accounting requirements herein means the period beginning on the first day of July and ending on the following June 30

(f) Local educational agency means a board of education or other legally constituted local school authority having administrative control and direction of public secondary schools in a city county township school district or other political subdivision in a State

(g) Public as applied to any school does not include a school of any agency of the United States

(h) Secondary school means those grades which provide secondary education as determined under State law not beyond grade 12 on an organized class basis, with one or more teachers to give instruction of a defined type and housed in a school plant of one or more buildings. Public secondary school means those secondary schools operated as part of the public secondary common school system of the State

(i) State means a State Puerto Rico the District of Columbia the Canal Zone Guam or the Virgin Islands

(j) State educational agency' or State agency means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools or if there is no such officer or agency an officer or agency designated by the governor or by State law

Subpart B—State Plan—General Provisions**§ 143 2 State plan**

(a) Purpose A basic condition for the payment of Federal funds to a State for the establishment maintenance or extension in secondary schools of guidance and counseling programs and for testing programs to identify students with outstanding aptitudes and ability is a State plan meeting the requirements of section 503(a) of the Act. The plan shall include a general description of the present guidance counseling and testing activities of the State and local educational agencies and the guidance counseling and testing programs to be

established under the plan. The plan shall set forth the objectives to be accomplished through the proposed programs during the four-year period during which Title V of the Act is in effect and shall show how the realization of these objectives will result in more adequate guidance, counseling and testing in secondary schools in the State. The plan, when approved by the Commissioner, shall constitute the basis on which Federal grants will be made as well as a basis for determining the propriety of State and local expenditures in which Federal participation is requested.

(b) *Submission.* The State plan and all amendments thereto shall be submitted to the Commissioner by a duly authorized officer of the State educational agency. The plan shall indicate the official or officials authorized to submit plan material.

(c) *Amendment.* The administration of the programs shall be kept in conformity with the approved State plan. Whenever there is any material change in the content or administration of a program or when there has been a change in pertinent State law or in the organization, policies or operations of the State educational agency affecting a program under the plan, the State plan shall be appropriately amended.

(d) *Certificate of the State educational agency.* The State plan and all amendments thereto shall include as an attachment a certificate of the officer of the State educational agency authorized to submit the State plan to the effect that the plan or amendment has been adopted by the State agency and that the plan or plan as amended will constitute the basis for operation and administration of the program(s) in which Federal participation under sections 501-504(a) inclusive will be requested.

(e) *Certificate of the State Attorney General.* The plan shall also include as an attachment a certificate by the State Attorney General to the effect that the State agency named in the plan is the "State educational agency" as defined in § 143.1(j) which has authority under State law to submit the State plan and to carry out the programs described therein as the sole State agency responsible for the administration of the plan and that all of the plan provisions are

consistent with State law. If an official other than the Attorney General of the State is designated by State law to advise the State educational agency on legal matters and if the rulings of such official have the same legal effect with respect to the agency as rulings of the Attorney General have with respect to agencies advised by him, the certificate may be made by such official.

§ 143.3 State agency for administration

(a) *Designation.* The State plan shall give the official name of the agency which will be the sole agency for administering the plan. Such agency shall meet the criteria set forth in § 143.1(j) defining "State educational agency."

(b) *Organization.* The State plan shall describe by chart or otherwise the organization of the State staff for the administration of the programs set forth in the plan. The lines of authority within the administrative unit or units responsible for the programs under the plan shall be shown together with the administrative relationships of such unit or units to the rest of the State educational agency.

§ 143.4 Authority of State agency

The State plan shall set forth the authority of the State educational agency under State law to submit the State plan and to administer the programs set forth therein, including a description of the supervisory relationships between the State agency and the local educational agencies. Citations to or copies of all directly pertinent statutes and interpretations of them by appropriate State officials, whether by regulation, policy statements or opinions of the Attorney General or court decisions, shall be furnished as part of the plan. All copies shall be certified as correct by an appropriate official. If the agency is not authorized under State law to expend funds for testing children attending one or more secondary schools in the State, the authorized officer of the agency shall so certify, indicating the schools or types of schools thus excluded and giving the legal basis for his conclusion. In such cases the Commissioner will arrange for testing such children under the authority contained in section 504(b) of the Act.

§ 143.5 Custody of funds

The State plan shall designate the officer who will receive and provide for

the custody of all funds to be expended under applicable State laws and regulations on requisition or order of the State agency

§ 143 6 State fiscal procedures

(a) *State administration* The State plan shall describe the fiscal administration of the plan. Such administration shall be conducted in accordance with applicable State laws, policies and procedures which shall be identified in the plan or set forth in an appendix. Accounts and supporting documents relating to any program involving Federal participation shall be adequate to permit an accurate and expeditious audit of the program.

(b) *Audit of local educational agencies* All expenditures of local educational agencies claimed for Federal participation shall be audited either by the State or by appropriate auditors at the local level. The State plan shall indicate how the accounts of local educational agencies participating in the State plan will be audited and if the audit is carried out at the local level how the State agency will secure information necessary to assure proper use of funds expended under sections 503 and 504(a) of Title V of the Act by such local educational agencies.

§ 143 7 Qualifications of State positions

(a) *Staff* The State plan shall contain a description of the duties of and qualifications for professional positions for State personnel engaged in guidance, counseling and testing activities for which funds are to be used under the State plan. If these positions are established by State statutes or regulations and provide the above information, give citation to such statutes or copies of such regulations.

(b) *Advisory committee* If a State advisory committee on guidance, counseling or testing is established, the plan shall describe the general composition and duties of this committee.

§ 143 8 State agency program activities

The plan shall include the program of the State agency for the direction, coordination and supervision of operations under the plan. Provision shall be made for periodic program reviews by the State agency at least annually for the

purpose of appraising the status of the programs in terms of the stated objectives.

§ 143 9 Local school programs, personnel, and facilities

If Federal funds are to be used to carry out the State program on the local level, the State educational agency shall have responsibility for establishing standards and procedures under the plan for the approval of local educational agency activities in guidance, counseling and testing in which there is to be Federal participation. The plan shall specify the methods the State will use to assure that activities of the local educational agencies are in accordance with the State plan.

§ 143 10 Reports

The State plan shall provide that the State agency will participate in such periodic consultations and will make such reports to the Commissioner at such time in such form and containing such information as the Commissioner may consider reasonably necessary to enable him to perform his duties under Part A, Title V of the Act and will comply with such provisions as he may find necessary to assure the correctness and verification of such reports.

Subpart C—Federal Financial Participation

§ 143 11 Effective date of plan

Since the Federal Government participates only in amounts expended under the State plan, there can be no Federal participation in any expenditure made before the plan is in effect. For the purposes of this section, the earliest date on which a plan may be considered in effect is the date on which it is received in substantially approvable form by the Commissioner.

§ 143 12 Federal participation in general

After fiscal year 1959, the Federal Government will pay from each State's allotment as reduced by expenditures required pursuant to section 504(b) of the Act, one-half of the total sum expended under the approved State plan. (a) By the State and local educational agencies in the establishment, maintenance or extension of guidance, counseling or testing programs approved under the

State plan and (b) for State agency supervision and related services with respect to such programs. There can be no Federal financial participation in the payment of obligations incurred or in expenditures made by local educational agencies for local guidance and counseling programs if the programs have not first been approved by the State agency under an approved plan.

§ 143 13 Proration of costs

Federal participation is available only with respect to that portion of any expenditure which is attributable to an activity under the State plan. The State plan shall specify the basis for identifying and prorating expenditures not attributable solely to State plan activities.

§ 143 14 Application of State rules

Subject to the provisions and limitations of the Act and this chapter, Federal financial participation will be available only in expenditures made under the plan in accordance with applicable State laws, rules, regulations and standards governing expenditures of State and local funds.

§ 143 15 Use of State rule in determining the fiscal year's allotment to which an expenditure is chargeable

Each allotment to a State under section 502 or 1008 of the Act is made with respect to a fiscal year commencing on July 1 and ending the following June 30. State and local laws and regulations shall be followed by the States in determining to which fiscal year an expenditure by the State or local educational agency is chargeable for the purpose of earning the allotment. Each State therefore shall use the accounting basis (cash accrual or obligation) applicable to its State or local accounting.

§ 143 16 Reimbursement of local educational agencies

State plans may provide that funds may be transferred to local educational agencies or other school authorities pursuant to a plan program either in advance or as reimbursement. Reimbursement or payment need not be uniform to all local educational agencies (i.e. the State plan may provide a method by which the ratio of Federal and State reimbursement to total expenditures may be adjusted to local needs). Such transfers shall not count as sums expended

for the purposes of earning Federal financial participation (see §§ 143 12 and 143 15).

§ 143 17 Disposal of records

(a) *General rule*. The State educational agency shall provide for keeping accessible and intact all records supporting claims for Federal grants or relating to the accountability of the grantee agency for expenditure of such grants and relating to the expenditure of matching funds. (1) for three years after the close of the fiscal year in which the expenditure was made by the State or local educational agency; (2) until the State agency is notified that such records are not needed for program administration review; or (3) until the State agency is notified of the completion of the Department's fiscal audit whichever is later.

(b) *Questioned expenditures*. The records involved in any claim or expenditure which has been questioned shall be further maintained until necessary adjustments have been made and the adjustment have been reviewed and cleared by the Department.

(c) *Records of equipment*. Where nonconsumable equipment which costs \$10 or more per unit is purchased with Federal financial participation inventories and other records supporting accountability shall be maintained until the State agency is notified of the completion of the Department's review and audit covering the disposition of such equipment.

Subpart D—Federal Payment Procedures

§ 143 18 Annual estimates and financial reports

(a) *Content*. For each fiscal year the State agency shall submit in accordance with procedures established by the Commissioner.

(1) A description of the activities to be carried on under the plan during the ensuing fiscal year; and

(2) An estimate upon official forms of the expenditures to be made in carrying out these activities.

(b) *Effect of estimates*. Expenditures will not be precluded from Federal financial participation because of minor de-

viations from the information submitted pursuant to paragraph (a) of this section if they are otherwise made in accordance with the approved plan and the regulations in this part

(c) *Reports* Following the end of each fiscal year the State agency shall submit in accordance with procedures established by the Commissioner a report of the total expenditures and obligations made under the plan during the fiscal year

§ 143 19 Federal payments

Payments will be made semi-annually in advance to States with approved plans on the basis of estimates and reports of expenditures provided for in §§ 143 18 and 143 21. In making payments, such adjustments of underpayments or overpayments for any prior period will be made as are indicated by the accounts for such prior period. In settling accounts subsequent to the close of fiscal year 1962 the State shall refund to the Commissioner any overpayment which may have been made under Title V of the Act

§ 143 20 Effect of Federal payments

(a) *No waiver* Neither the approval of the State plan nor any payment to the State pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure of the State to observe before or after such administrative action any Federal requirements

(b) *Settlement of accounts* The final amount to which the State is entitled for any period is determined on the basis of expenditures under the State plan with respect to which Federal financial participation is authorized

§ 143 21 Request for payment of Federal funds

Prior to the beginning of each semi-annual fiscal period the State agency shall submit to the Commissioner upon official forms a statement of estimated total expenditures for activities under the plan during such semi-annual period indicating the amount of funds available to pay the non-Federal share of the amount estimated

§ 143 22 Certifying payment

Payment will be certified after (a) the State has on file in the Office of Edu-

cation a plan approved by the Commissioner (b) the estimates and reports required in §§ 143 18 and 143 21 have been reviewed, and (c) the Commissioner is satisfied that the State will be able to carry out the plan during the current fiscal year

§ 143 23 Interest on Federal grants

Interest earned on Federal grants shall be credited to the United States. The State agency shall submit as a part of each fiscal report a statement showing the amount of interest earned on Federal funds during that period. Ordinarily such interest earnings will be considered in the adjustment of the Federal-State account but for the last year of the program payment of interest must be made by the State to the Commissioner

Subpart E—State Agency Program Activities

§ 143 24 General program operations

Under Title V Part A of the Act there may be Federal participation in such State agency expenditures as are directly related to the establishment and maintenance of adequate programs of guidance counseling and testing developed under the plan

(a) *Categories of activities* Such programs may include the following activities (1) The organization general direction and coordination of the guidance, counseling and testing programs established under the plan (2) planning State programs and assisting in the planning of local programs (3) assisting local guidance personnel in establishing maintaining or improving programs (4) helping in the planning and preparation of materials and information for State and local programs (5) evaluating the results of guidance counseling and testing programs and (6) such other related activities as may be necessary for the organization maintenance and improvement of programs established under the plan

(b) *Categories of expense* The costs of such programs for which funds may be used include items such as the following but only to the extent that they are directly related to the supervision and operation of the plan programs of guidance counseling and testing (1) Salaries of the State staff in both professional and clerical positions including

the employer's contribution to retirement workmen's compensation or other welfare funds maintained for one or more general classes of employees of the State educational agency (2) communication (3) office equipment and supplies (4) printing and printed materials (5) the purchase or rental of tests answer sheets profile sheets cumulative record forms and such other materials as may be necessary under the plan (6) the rental of equipment conducive to efficiency in scoring processing and reporting the results of tests administered under the plan or if owned by State or local educational agencies the pro-rata share of the cost of maintaining and operating such equipment (7) rental of office space as provided in paragraph (c) of this section and (8) other costs provided for in the following sections

(c) *Office space* Federal financial participation shall be available in expenditures for office space (including the cost of utilities and janitorial services) in privately or publicly owned buildings if (1) The expenditures for the space are necessary reasonable and properly related to the supervision and operation of the plan programs of guidance counseling and testing (2) the State agency will receive the benefits of the expenditures during the period of occupancy commensurate with such expenditures (3) the amounts paid by the State agency are not in excess of comparable rental in the particular locality (4) the expenditures represent an actual cost to the State agency and (5) in publicly owned buildings like charges are made to other agencies occupying similar space

§ 143 25 Travel expense

The categories of allowable travel expense for activities under the plan are the following where consistent with State law and regulations (a) Travel expense of the State staff when on official business, (b) travel expense of instructors necessary to provide professional assistance to State or local supervisors counselors or other guidance personnel (c) travel expense of consultants retained by the State educational agency and (d) travel expense of members of the State Advisory Committee for guidance counseling and testing when on official committee business

§ 143 26 Studies, investigations, and experiments

Expenditures may be made under the plan to determine and evaluate (1) Local or State guidance counseling and testing needs (2) the effectiveness of procedures in guidance counseling and testing and (3) the results of the program operations Such expenditures may include those items allowed under §§ 143 24(b) and 143 25 which are appropriate

§ 143 27 Supervision of professional personnel

The Federal Government will participate on the same basis as in the categories of expense set forth in § 143 24(b) with respect to the cost of the salaries and necessary travel expenses of supervisors consultants or instructors used by the State agency in the conduct of conferences and workshops to develop and improve and strengthen the conduct of guidance counseling and testing programs and to develop materials helpful to the development and conduct of guidance counseling and testing programs

Subpart F—Program for Testing Aptitudes and Ability

§ 143 28 Purposes of testing program

The Federal Government will participate in expenditures to establish and maintain a program for testing aptitudes and abilities of students in public secondary schools and if authorized by law in other secondary schools to identify students with outstanding aptitudes and abilities reports of which may be used for the following purposes (a) To provide such information about the aptitudes and abilities of secondary school students as may be needed by secondary school guidance personnel in carrying out their duties and (b) to provide information to other educational institutions relative to the educational potential of students seeking admission to such institutions

§ 143 29 Testing defined

"Testing" as found in section 503(a) (1) of the Act means the use of tests which measure abilities from which aptitudes for the individual's educational development validly may be inferred

§ 143 30 Conduct of testing program

(a) *Utilizing other agencies* In administering the testing program the State educational agency may (1) Utilize local educational agencies to conduct the testing program under State supervision (2) provide for a testing program to be planned and administered by a local educational agency under the plan in accordance with § 143 9 and (3) contract with public or private institutions or agencies or with individuals for services (e.g. scoring tests and reporting test results) which are not inconsistent with its responsibility

(b) *Expenditures of local educational agencies* If the State agency conducts a testing program under the provisions of subparagraph (1) or (2) of paragraph (a) of this section expenditures otherwise appropriate are subject to Federal participation when made by the local educational agency for (1) the purchase or rental of tests answer sheets profile sheets cumulative record forms and such other materials as may be necessary under the plan (2) the rental of equipment conducive to efficiency in scoring processing and reporting the results of tests administered under the plan or if owned by State or local educational agencies the pro-rata share of the cost of maintaining and operating such equipment or (3) contractual services not inconsistent with State and local responsibilities for scoring tests and reporting test results

§ 143 31 Plan requirements solely applicable to the program for testing aptitudes and abilities

The plan shall describe in general terms the primary objectives of the program including procedures for making this program available to all secondary school students in a specified grade or grades and shall provide for annual reviews by the State agency of progress toward meeting these objectives The plan shall describe the provisions for carrying out the programs including (a) The types of tests to be utilized for the measurement of aptitudes and abilities and the grade(s) to be tested and (b) the procedures to be utilized in the administration and scoring of tests and in the reporting and recording of test results

Subpart G—Guidance and Counseling Programs in Public Secondary Schools**§ 143 32 Scope and purposes**

Guidance and counseling programs in public secondary schools under the plan shall serve both to advise students regarding courses of study best suited to their ability aptitudes and skills and to encourage students with outstanding aptitudes and ability to complete their secondary school education take the necessary courses for admission to institutions of higher education and enter such institutions These programs shall provide assistance to students by assessing abilities aptitudes interests and educational needs developing understandings of educational and career opportunities and requirements and helping them make the best possible use of these opportunities through the formulation and achievement of realistic goals Such programs may be carried out by the following activities when directed to the foregoing purposes

(a) Collecting organizing and interpreting such information as may be appropriate to the understanding of the student's abilities aptitudes interests and other personal assets and liabilities related to educational and career planning and progress

(b) Making available to the student and his parents such educational and career information as may be essential for them to understand the various educational and career opportunities and requirements related to the choice of an educational program and a career

(c) Providing individual counseling (1) to help the student and his parents develop a better understanding of the student's educational and occupational strengths and weaknesses (2) to help the student and his parents relate his abilities and aptitudes to educational and career opportunities and requirements (3) to help the student with the assistance of his parents make appropriate educational plans including the choice of courses in the secondary school and the choice of an institution of higher education (4) to stimulate desires in the student to utilize his abilities in attaining appropriate educational and career goals and (5) to provide for the

student such assistance as may be needed for the development of his aptitudes and the full utilization of his abilities

(d) Providing services to encourage and assist students in making educational transitions, such as placement in educational institutions beyond the high school

(e) Providing such group activities as may be necessary to orient students to the (1) high school program, (2) educational opportunities beyond the high school, and (3) career opportunities and requirements

(f) Providing to teachers and school administrators such information about individual students or groups of students as may be necessary to enable them to plan curricular and instructional programs appropriate to the educational needs of the student body and to the manpower needs of the State and the Nation

(g) Collecting and analyzing such information as may be needed to evaluate the guidance and counseling program and to provide such guidance information as may be available and needed to evaluate the school's program in terms of the educational needs of the students and of the State and the Nation

§ 143.33 Categories of expenditures applicable to approved local guidance and counseling programs

Categories of allowable expenditures for the supervision and operation in public secondary schools of local guidance and counseling programs approved by the State educational agency under the standards established pursuant to § 143.34(a) include the following

(a) Salaries and necessary travel expenses of local school guidance personnel to the extent that they are engaged specifically in activities under the plan and within the scope of the activities listed in § 143.32 The employer's contribution to retirement workmen's compensation or other welfare funds maintained for one or more general classes of employees of the local educational agency may be included

(b) Clerical assistance directly related to the operation of a local educational agency's guidance and counseling program under the plan

(c) The purchase and maintenance of office equipment necessary to meet the plan requirements

(d) The purchase of such materials (including library source materials) and supplies as may be necessary to fulfill the functions of the guidance and counseling program under the plan

(e) Necessary travel expenses for local guidance personnel engaged in plan activities to participate in such conferences and workshops as may be approved under the plan by the State educational agency

§ 143.34 Plan requirements solely applicable to guidance and counseling programs

The plan shall describe a program(s) for guidance and counseling which shall include the following items

(a) The standards and procedures to be employed by the State educational agency in approving local school programs of guidance and counseling for participation under the plan (1) Such standards shall provide for the utilization of a testing program which fulfills the testing program provisions established by the State plan pursuant to § 143.31 (2) In addition there shall be stated the recommended and the minimum standards for approval and the measures to be employed in achieving the recommended standards These standards shall cover each of the following areas (i) The guidance and counseling activities to be provided (ii) the qualifications for local school guidance positions (iii) the counselor-student ratio and (iv) the physical facilities equipment and materials

(b) The methods and procedures to be employed by the local educational agencies in the supervision of local school guidance and counseling programs under the plan

(c) The means to be used by the local educational agencies for coordinating the guidance and counseling program with other student personnel services

PART 144—NATIONAL DEFENSE STUDENT LOAN PROGRAM

Sec

144.1 Policy and purposes of the National Defense Student Loan Fund Program